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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,219

04/13/2004

Robert C. Richardson

3287

9067

26645

7590

11/14/2008

THE LUBRIZOL CORPORATION
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EXAMINER

ALEXANDER, LYLE

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

11/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-15 and 21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Becket (USP 5,710,372).

See the appropriate paragraph of the 7/16/08 Office action for the teachings of Becket.

The 9/9/08 amendments claim the sample is an "organic solvent based functional fluid." The Office has interpreted these limitations as requiring the functional fluid to at least contain one organic solvent. Becket teaches in column 14 lines 11-14 the sample fluid can contain "organic compounds" which have been read on the claimed "organic solvent."

Response to Arguments

Applicant's arguments filed 9/9/08 have been fully considered but they are not persuasive.

Applicants' state the instant claims are directed to obtaining a sample of an organic solvent based functional fluid whereas Becket teaches analysis of an aqueous fluid. The instant claim language is open and does not exclude the presence of aqueous components of the sample. The instant claim language has been interpreted as requiring at least one "organic solvent." Becket teaches in column 14 lines 11-14

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there are organic components of the sample which has been properly read on the claimed “organic solvent based functional fluid.”

This is a RCE of applicant's earlier Application No. 10/823,219. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Tuesday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lyle A Alexander
Primary Examiner
Art Unit 1797

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